

March 8, 2010

Dear Senator Gaffey, Representative Fleischmann, and Members of the Education Committee,

I am requesting that you accept this letter from Smart Kids with Learning Disabilities, Inc., a nonprofit organization based in Westport, Connecticut whose members include parents of children with learning disabilities, attention deficit disorders and other learning challenges, in opposition to the Proposed Bill #HB 5425, establishing that the burden of proof lies with the party requesting a special education hearing.

The current law states that the burden of proof is the responsibility of the school district to prove it has provided a "Free, Appropriate, Public Education" (FAPE) through the Individual Education Plan (IEP). It reflects well-settled Connecticut policy, and makes good sense because the school districts are in control of the records, staff, and the experts, and have unlimited access to all the information about the program they are providing. They can use their own staff as expert witnesses.

Unlike school personnel, parents often can't understand the jargon used at the IEP meetings. This is a huge imbalance of power; the districts are in a far better position to defend the programs they deliver, as opposed to the parent having to prove that the program is inappropriate. How would the proposed change affect parents who have children with disabilities in Connecticut? It stacks the deck more heavily in favor of school districts.

Historically, the majority of hearings reviewing the delivery of special education services to students with disabilities, our most vulnerable population, are already decided in favor of the school districts. This bill proposes a drastic 180-degree change of the burden of proof in special education due process cases. It would make due process hearings excessively costly and would be an insurmountable challenge for parents, creating a situation in which the families could not have a fair hearing with any reasonable chance of prevailing.

Thank you for your consideration.

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